

Summary of Testimony
Michael K. Powell
Chairman, Federal Communications Commission

Good morning, Mr. Chairman and distinguished Members of the Committee. I welcome the opportunity to come before you today with my colleagues on the Commission to discuss our collective efforts to protect children from sexual, violent and profane content.

The now infamous Super Bowl halftime show is just the latest example in a growing list of *deplorable incidents* over the nation's airwaves. The increasing coarseness on television and radio has resulted in a dramatic rise in public concern and outrage about what is being broadcast into their homes. Over 200,000 concerned citizens and counting have filed complaints with the Commission on the Super Bowl incident alone. A recent Time/CNN poll found 47% of Americans said the incident marked "a new low in bad taste." As a parent, I share the displeasure and fatigue of millions of Americans about the erosion of common decency standards on television.

As a member of the federal agency responsible for prosecuting those who peddle indecent broadcast programming, I can assure all Americans that this Commission will continue to protect children and respond to the public's concerns. Under our authority, and consistent with the First Amendment, we will continue to vigorously enforce our indecency rules. To punctuate the point, within hours of the Super Bowl incident, we launched our investigation into whether there was a violation of the law. This investigation will be thorough and swift.

Protecting children and giving parents the tools to restrict inappropriate programming from unexpectedly invading our family rooms requires action on all fronts. The effort begins with the Commission. This Commission boasts the most aggressive enforcement regime in decades, proposing nearly ten times the level in indecency fines than the previous Commission.

And, we are taking additional steps to sharpen our enforcement blade:

- Recognizing that \$27,500 fines constitute peanuts to multi-million dollar operations, we will actively seek ways to increase penalties against those who engage in lasting and repetitive indecent programming, including taking steps to impose the statutory maximum for serious violations of the law (up from \$7,000 fines of previous Commissions);
- We will treat multiple indecent utterance with a single program as constituting multiple indecency violations;
- We will begin license revocation proceedings for egregious and continuing disregard of decency laws;

- We will pursue indecent programming on television more aggressively—including our proposal to overturn the Enforcement Bureau’s decision in the Golden Globes case—a decision by the Commission in that case is imminent;
- We will continue to work aggressively to answer complaints in a timely manner (of the 14,000 complaints filed in 2002 only 30 remain pending) and bring more cases up to the full Commission for review; and,
- We will continue to vigorously monitor industry developments to see if they, indeed, meet the challenge of their responsibilities to protect our children.

Indeed, the Commission has already begun wielding our sword in several important respects. We have proposed some of the largest fines in our indecency enforcement history, including a proposed forfeiture of over \$300,000 in the case of a broadcast of sexual conduct in St. Patrick’s Cathedral in New York and a proposed fine of over \$700,000 levied against various Clear Channel stations for over 20 indecency violations.

In addition, last month, we opened a new front in our effort to protect children by fining a San Francisco television station the statutory maximum of \$27,500 when it aired a program in which a performer exposed himself in front of the camera—marking one of the first ever fines against a television station in Commission history. Just this week, I have personally called on the broadcast and cable industry to step to the forefront and take affirmative steps to commit themselves to protecting children. Specifically, I have challenged broadcasters to re-institute a voluntary Code of Conduct and urged the broadcast and cable industries to work with the public to take other steps, such as educational and outreach campaigns and providing for a delay for live entertainment performance events.

To succeed fully in protecting our children from the proliferation of inappropriate and excessive violent content, the industry and Congress also have critical roles to play. I continue to support, in the strongest possible terms, proposed legislation that will increase the statutory maximum of our forfeiture penalties at least ten-fold. I commend Congressman Upton and Senator Brownback and those Members supporting their respective bills for their leadership on this issue. We need this increased authority to ensure that our enforcement actions are meaningful deterrents and not merely cost of doing business. Additionally, this deterrent effect can also spread to other types of coarse or inappropriate programming not suitable for our children, such as excessive violence.

The time has come for us to work collectively—the Commission, the Congress, the industry and the public to take the necessary steps to prevent allowing the worst that television has to offer from reaching our unsuspecting children. I commit to you that this Commission will continue to put our resources into vigorously enforcing our indecency rules. I urge Congress to assist us in these efforts and urge the industry to do its part to protect our nation’s children. Thank you, I will be happy to answer any of your questions.